THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25079 of 2006

05.12.2006

Between:

Chirec Public School, Unit of Shri Shakti Schools Pvt Limited,
Represented by its Director, Smt.Ratna D Reddy

... Petitioner

AND

The Principal Secretary, Government of Andhra Pradesh,
Revenue Department, Secretariat, Hyderabad
And another

... Respondents

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.25079 of 2006

ORDER:

The petitioner school was established by Shri Shakti Schools Private Limited (hereafter called, the company). The company purchased land admeasuring Acs.5.16 guntas in survey Nos.198/P and 199/P situated at Kondapur village of Serilingampally Mandal in Ranga Reddy District. The vendors of the petitioner, M/s.R.Srinivasa Reddy and three others; M/s.T.N.Vishwambar and two others, N.Bhagirat and D.V.Satya Kumar, purchased the property from Shaik Omer under registered sale deeds. The company obtained mutation in their favour. After obtaining building permission from Hyderabad Urban Development Authority (HUDA) as well as Serilingampallay Municipality, they constructed school building and statedly acquired eminence. On 23.11.2006, the petitioner learnt about the proceedings under the Urban Land (Ceiling and Regulation) Act, 1976 (ULC Act, for brevity), which ultimately resulted in notice dated 15.4.2006 issued under Section 10(5) of ULC Act to the vendors of the petitioner's vendors. After obtaining the copies of the proceedings at various stages under ULC Act, the petitioner filed the present writ petition challenging the draft statement under Section 8(1), final statement/orders under Section 8(4) read with 9, notifications under Section 10(1) and 10(3), and notice under Section 10(5) of ULC Act.

Learned Senior Counsel for the petitioner strenuously contends that the land purchased by the petitioner admeasuring Acs.5.16 guntas falls within peripheral area which stands exempted from the provisions of ULC Act, as per the Government orders in G.O.Ms.No.733. He also submits that the petitioner purchased agricultural land and, therefore, ULC Act has no application. He nextly submits that the petitioner was never given any notice though it has been in possession and enjoyment of the land from 1994 and, therefore, all the orders passed in relation to the petitioner's land are illegal and violative of principles of natural justice. He also submits that the original owners of the land, who filed declaration under Section 6(1) of ULC Act could not have declared the land admeasuring Acs.5.16 guntas sold to the petitioner and the said land cannot be treated as excess vacant land.

Learned Assistant Government Pleader for ULC opposes the writ petition. He submits that the writ petition is not maintainable as the petitioner has effective alternative remedy of filing appeal under Section 33 of ULC Act. Secondly, he submits that the petitioner

purchased the land in 1994 (after coming into force of ULC Act), which is void under Section 5(3) of ULC Act and, therefore, the petitioner cannot claim any right under the sale deeds. Lastly he would submit that admittedly the petitioner converted the agricultural land into non-agricultural land by constructing school building and that as per the principle laid down by the Supreme Court in **Adikesavareddy**[1], they are bound to file declaration which they did not do and, therefore, they cannot challenge the orders so far passed on the declarations filed by the original owners.

A perusal of the final order/statement under Section 8(4) read with 9 of ULC Act would show that Sheik Mohammed and others filed declaration under Section 6(1) of ULC Act being CC Nos.H2/10079/76, H/8782/76, H2/8780/76 and H2/8781/76 was finalized and final orders were passed on 03.8.1992, followed by notices to the occupants under Section 10(5) of ULC Act. At that stage, the declarants and others filed W.P.No.4439 of 1984 and batch. These were allowed by this Court by order dated 25.10.1989 and the matter was remanded to the second respondent for *de novo* disposal. After examining the matter afresh, final orders were passed on 16.11.1994 under Section 8(4) of ULC Act. Again notice under Section 6(2) of ULC Act was issued on information that declarants converted agricultural lands into residential plots and sold away to third parties. In response thereto, some of the successors of the declarants filed declaration under Section 6(1) of ULC Act necessitating a further enquiry and further draft statement under Section 8(1) of ULC Act. The same was issued on 30.9.2005 followed by final order on 28.12.2005. In the final order, the second respondent declared 90,229.83 Sq.mts each in respect of three branches of the family and 34,497.77 Sq.mts each in respect of remaining two branches of the family, as surplus vacant land. A perusal of these orders would show that insofar as declarants are concerned the second respondent *prima facie* followed the procedure in the matter of issuing notices, obtaining objections, affording an opportunity and passing orders. In the absence of declaration filed by the owners of the land it is not possible whether the land purchased by the petitioner was also shown to be in the declaration. It appears that no notice was issued to the petitioner before passing the final orders under Section 8(4) of ULC Act. Therefore, it would be proper to give liberty to the petitioner to file appeal before the Commissioner of Appeals (ULC) and seek redressal. In giving this liberty, be it made clear that this Court is not expressing any opinion on the merits of the case. Insofar as the final orders passed by the second respondent in respect of

declarations filed by the original owners are concerned, that is altogether a different matter. The petitioner is concerned only with about 20,000 Sq.mts of land and they have to work out their remedies before the appellate authority raising all the grounds. The petitioner may file appeal within a period of ten days from the date of receipt of a copy of this order. To enable the petitioner to obtain interim order, till then there shall be *status quo* for a period of two weeks. This Court also observes that as and when the appeal is filed, the Commissions of Appeals may entertain the appeal and pass appropriate orders in accordance with law.

The writ petition, with the above observations, is accordingly disposed of. No costs.

_____

(**V.V.S.RAO, J**)

December 05, 2006

NOTE:

Send a copy of this order to the
Commissioner of Appeals (ULC),
Nampally, Hyderabad.

(By order)

YS

---

[1] (2001) 1 SCC 227